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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Henry L. Restarick, et al.
Serial No.: 10/725,140
Filed: December 1, 2003
Entitled: MULTILATERAL COMPLETION
SYSTEM UTILIZING AN ALTERNATE
PASSAGE
Group Art Unit: 3672
Examiner: T. Bomar

RESPONSE TO REQUIREMENT FOR ELECTION OF SPECIES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the November 7, 2005 requirement for election of species in the above-identified patent application, the applicants hereby provisionally elect, with traverse, the claims allegedly drawn to a species of the invention as representatively illustrated in FIG. 1, for continued prosecution in the application. Along with the alleged generic claims 1-5, 10, 11, 13-16, 23-26, 29, 32-34, 36, 39, 51, 55-57 and 83, claim 89 is also generic, and claims 6-9, 12, 27, 28, 30, 31, 37, 38, 49, 50, 58, 59, 69-72, 75-82, 84, 90, 91, 95, 96, 102 and 103 read on the provisionally elected species.

In response to the additional requirement for election of a sub-species, this requirement is respectfully traversed. The requirement is traversed on the basis that the listed sub-species are not mutually exclusive. Please see MPEP §806.04(f):

Claims to be restricted to different species must be mutually exclusive.
The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which

under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species.

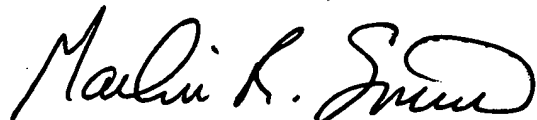
In the present case, the listed sub-species are not mutually exclusive, since they are usable together in an embodiment of the invention. For example, the flow control device of FIG. 2 (listed as sub-species 9) could clearly be used in the same embodiment with the expandable second passage of FIG. 5 (listed as sub-species 11). As another example, the flow control device of FIG. 3 (listed as sub-species 10) could clearly be used in the same embodiment with the expandable first passage of FIG. 6 (listed as sub-species 12).

Thus, it is simply not possible for a claim which recites limitations specific to the flow control device of FIGS. 2 or 3 to be mutually exclusive of a claim which recites limitations specific to the expandable features of FIGS. 5 or 6. For at least this reason, the examiner is respectfully requested to withdraw the requirement for election of species.

In keeping with the requirement for a listing of all claims which read on the provisionally elected species, the applicants hereby state that, with alleged generic claims 1-5, 10, 11, 13-16, 23-26, 29, 32-34, 36, 39, 51, 55-57, 83 and 89, claims 6, 9, 12, 28, 30, 37, 38, 49, 50, 58, 59, 69-72, 76, 90, 91, 102 and 103 read on the sub-species of FIGS. 5 & 7.

Respectfully submitted,

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